

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**NATIONWIDE AGRIBUSINESS  
INSURANCE COMPANY,**

Plaintiff,

**FRANSISCO ALCALA,**

Involuntary Plaintiff,

**Case No. 12-C-1227**

**-vs-**

**MELLER POULTRY EQUIPMENT, Inc. and  
MELLER ANLAGENBAU GMBH,**

Defendants.

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**DECISION AND ORDER**

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On August 29, the Court issued an order regarding Meller Poultry's motion to compel the production of certain witness statements and an incident report, which Nationwide claims to be protected work product. With regard to the incident report, the Court observed that Nationwide's "vague description of the report's content is not enough to meet Nationwide's burden under the sole purpose test. . . . That said, Nationwide insists that if there is any doubt about the nature of this report . . . , the Court should conduct an *in camera* review. If Nationwide still thinks that it is entitled to the privilege, even in light of the foregoing discussion, the Court will conduct an *in camera* review at Nationwide's request." ECF No. 33; 2013 WL 4647983, at \*3 (E.D.

Wis. Aug. 29, 2013). Nationwide accepted the Court's invitation and filed the incident report under seal. After reading the report, the Court is not persuaded that it was prepared and used solely to prepare for litigation. *Id.* at \*2. The report blames the accident on manufacturer negligence, but it also contains a description of the accident, which would certainly be useful in arriving at (or buttressing a tentative) claim decision. The report mentions Nationwide's "investigation and potential litigation against Meller," but this does not preclude the existence of a concurrent, non-litigation purpose.

Meller's motion to compel [ECF No. 27] is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 17th day of September, 2013.

BY THE COURT:



HON. RUDOLPH T. RANDA  
U.S. District Judge